

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:12-CV-401-RJC-DCK**

**ZURICH AMERICAN INSURANCE )  
COMPANY, and AMERICAN ZURICH )  
INSURANCE COMPANY, )  
Plaintiffs, )  
v. )  
BLYTHE DEVELOPMENT COMPANY,) )  
Defendant. )**

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**ORDER**

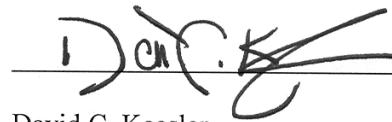
**THIS MATTER IS BEFORE THE COURT** on “Plaintiffs’ Motion To Strike Portions Of Defendant’s Reply Brief” (Document No. 11) filed August 17, 2012. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the undersigned will deny the motion.

The undersigned will respectfully decline to strike portions of a party’s brief under these circumstances. Instead the Court will allow Plaintiff to file a brief sur-reply addressing any alleged inaccuracies in “Defendant’s Reply...” (Document No. 10). In addition, the undersigned notes that Plaintiff’s motion does not appear to meet the requirement of consultation pursuant to Local Rule 7.1(B).

**IT IS, THEREFORE, ORDERED** that “Plaintiffs’ Motion To Strike Portions Of Defendant’s Reply Brief” (Document No. 11) is **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff may file a sur-reply as discussed herein, of five (5) pages or less, on or before **August 22, 2012**.

Signed: August 17, 2012

  
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David C. Keesler  
United States Magistrate Judge

